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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,151	11/16/2001	Eng Shi Ong	524622000100	3844
25225	7590	10/20/2004	EXAMINER	
MORRISON & FOERSTER LLP 3811 VALLEY CENTRE DRIVE SUITE 500 SAN DIEGO, CA 92130-2332			SIEFKE, SAMUEL P	
			ART UNIT	PAPER NUMBER
			1743	

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/991,151

Applicant(s)

ONG ET AL.

Examiner

Samuel P Siefke

Art Unit

1743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Restriction Requirement 7/2204.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5/2102, 2/19/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Group I in the reply filed on 7/22/04 is acknowledged.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims **1-21** are rejected under 35 U.S.C. 102(a) as being anticipated by Ong "Pressurized Liquid Extraction of berberine and aristolochic acids in medical plants" Journal of Chromatography, November 30, 2000.

Ong discloses a method for solvent extraction of analytes for a sample that comprises contacting the analyte in an extraction cell with a preheated organic solvent as extraction fluid under elevated temperature and regulated pressures to non-selectively extract analytes from the sample, the organic solvent being in liquid form under the conditions of temperature and pressure during extraction. Ong further discloses that the solvent system comprises at least two organic solvents (methanol,

acetate, page 59 left col.); the regulated pressure is 11 bar (page 58 right col.); the temperature is 100 C, 120 C and 140 C (page 58, right col.); the sample fills the extraction cell (page 59 right col.); the extraction cell is further filled with a filler (sand, page 59 right col.); the contact with solvent occurs at 15 to 30 minutes (page 59, right col.); the sample is a botanical or herbal preparation (plant); solvent included a additive (acetic acid, page 59 left col.); the analyte include aristolochic acid (page 59 left col.); flow rate is 1 ml/min solvent (page 59 left col.); analysis of the analytes were further tested on a liquid chromatography (page 60 left col.).

Claims **1,4-7,21** rejected under 35 U.S.C. 102(b) as being anticipated by Luque "Towards more rational techniques for the isolation of valuable essential oils from plants" Trends in Analytical Chemistry 1999.

Luque discloses a method for solvent extraction of analytes from plant samples that comprises contacting a sample (plant) in an extraction cell with a preheated organic solvent (water, preheated coil in oven) as extraction fluid under elevated temperatures and pressures to extract analytes from the sample. The water solvent is in liquid form under the conditions of temperature and pressure (page 711, left col. – page 712, and fig. 1). The temperature of the process takes place from 100 to 175 C (page 711 right col.) The samples are further detected by use of a gas chromatograph (page 711, right col.) The pressure is regulated at 20 bar (page 714, right col.).

Claim **1,12, 21** is rejected under 35 U.S.C. 102(b) as being anticipated by Wright et al. (USPN 5,087,360).

Luque discloses a method for solvent extraction of analytes from plant samples that comprises contacting a sample in an extraction cell with a preheated organic solvent as extraction fluid under elevated temperatures and pressures to extract analytes from the sample (abstract, col. 5). The solvent (methanol, etc. col. 5, lines 6-10) is in liquid form under the conditions of temperature and pressure. The extracts were analyzed by a gas chromatograph (col. 9, lines 57-59).

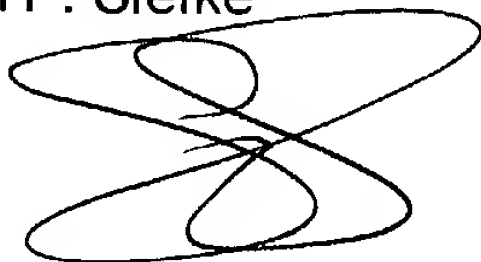
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samuel P Siefke whose telephone number is 571-272-1262. The examiner can normally be reached on M-F 7:00am-5:00pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill A. Warden can be reached on 571-272-1700. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sam P. Siefke



September 16, 2004


Jill Warden
Supervisory Patent Examiner
Technology Center 1700